

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

10x GENOMICS, INC.,

Plaintiff,

v.

CELSEE, INC.,

Defendant.

Civil Action No. 19-862-CFC-SRF

MEMORANDUM ORDER

Plaintiff 10x Genomics alleges that Defendant Celsee's Genesis Platform infringes the so-called "Brenner Patents": U.S. Patent Nos. 10,155,981; 10,240,197; 10,280,459; and 10,392,662. D.I. 86 ¶ 37. Pending before me is Celsee's Motion for Summary Judgment of Invalidity of the Brenner Patents under 35 U.S.C. § 112. D.I. 263.

The Brenner Patents share a common written description. In its Concise Statement of Facts filed in support of the motion, Celsee stated that the shared written description "does not recite beads covalently attached to an oligonucleotide tag which comprises a cell-specific tag and a molecule-specific tag." D.I. 266 ¶ 14. Celsee cited the four Brenner Patents as support for this asserted fact. D.I. 266 ¶ 14. 10x disputes this assertion and states that the patents' written description

“recites an MID attached to a solid support, and states that the solid support may be a bead”¹; that “[c]ovalent attachment between oligonucleotides and beads was well-known in the art as of the priority date, and the most common bond that the relevant end of an oligonucleotide forms with another molecule is a covalent bond”; and that “[o]ne of skill in the art would readily have understood from the [written description] that the inventors had possession of the claimed tags as part of a composition in which they are covalently attached to beads.” D.I. 308 ¶ 14.

Record evidence cited by 10x appears to support its position. *See* #981 patent at Fig. 2, 11:25–36; Ex. 3 ¶¶ 87–89, 1447, 1485; Ex. 4 at 133:7–134:2.

Because there is at least one disputed fact that Celsee has said is material to its motion for summary judgment, I will deny the motion. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (holding that summary judgment will not lie if there is a genuine dispute about a material fact).

NOW THEREFORE, at Wilmington this Sixth day of April in 2021, **IT IS HEREBY ORDERED** that Defendant’s Motion for Summary Judgment of

¹ A MID is associated with an oligonucleotide. *See* #981 patent at 6:33–36 (defining a MID in the Brenner written description as “a tag or combination of tags associated with a polynucleotide”); 7:60–62 (stating in the Brenner written description that the term “polynucleotide” is used interchangeably with the term “oligonucleotide”).

Invalidity of the Brenner Patents under 35 U.S.C. § 112 (D.I. 263) is **DENIED**.


UNITED STATES DISTRICT JUDGE